

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BANK OF AMERICA, N.A.,

Plaintiff

v.

TIERRA DE LAS PALMAS OWNERS
ASSOCIATION, et al.,

Defendants

Case No.: 2:16-cv-01362-APG-NJK

**Order (1) Accepting and Modifying Report
and Recommendation and (2) Directing
Entry of Default Against Defendant
Absolute Collection Services, LLC**

[ECF No. 56]

On June 26, 2020, Magistrate Judge Koppe recommended that I enter default judgment against defendant Absolute Collection Services, LLC because it has failed to comply with orders to retain counsel to defend itself in this action. ECF No. 56. Absolute did not file an objection. Thus, I am not obligated to conduct a de novo review of the report and recommendation. 28 U.S.C. § 636(b)(1) (requiring district courts to “make a de novo determination of those portions of the report or specified proposed findings to which objection is made”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (“the district judge must review the magistrate judge’s findings and recommendations de novo *if objection is made*, but not otherwise” (emphasis in original)).

However, I modify Judge Koppe’s recommendation to direct entry of default against Absolute, rather than enter default judgment. Plaintiff Bank of America, N.A. seeks damages against Absolute and thus far I have no basis to enter a judgment in any amount against Absolute. Indeed, the homeowners association has moved for summary judgment on Bank of America’s claims against it, which are the same as Bank of America’s claims against Absolute, arguing that Bank of America cannot succeed on its claims. *See* ECF No. 53. Moreover, the deadline for Bank of America to seek summary judgment against Absolute has expired without

1 the Bank having filed a dispositive motion seeking that relief. In sum, entry of default judgment
2 is premature. Consequently, I will direct the clerk of court to strike Absolute's answer (ECF No.
3 7) and enter default.

4 I THEREFORE ORDER that Magistrate Judge Koppe's report and recommendation
5 **(ECF No. 56) is accepted and modified** as follows: The clerk of court is instructed to strike
6 defendant Absolute Collection Services, LLC's answer (ECF No. 7) and to enter default against
7 defendant Absolute Collection Services, LLC.

8 DATED this 17th day of July, 2020.

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11 ANDREW P. GORDON
12 UNITED STATES DISTRICT JUDGE
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